

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

ELEGANT MESSAGE, LLC,
*on behalf of itself and all others
similarly situated,*

Plaintiffs,

v.

Action No. 2:20cv265

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, et al.,

Defendants.

ORDER

This matter is before the Court on Elegant Massage, LLC's ("Elegant Massage") third motion to compel, and State Farm Mutual Automobile Insurance Company's and State Farm Fire and Casualty Company's ("State Farm") motion to compel. ECF Nos. 174, 181. On September 30, 2021, the Court held a ZoomGov.com hearing on the motions. Tyler S. Graden, Esq., Marc C. Greco, Esq., and William H. Monroe, Jr., Esq., represented Elegant Massage. Christina G. Sarchio, Esq., and James P. Gaughan, Esq., represented State Farm. Paul McManus was the court reporter.

For the reasons stated on the record, the Court **GRANTS in part and DENIES in part** the motions, as follows. With respect to Elegant Massage's third motion to compel, ECF No. 175, the Court:

1) **DENIES** Elegant Massage's motion to compel State Farm to provide additional information about the 60,000 documents returned using selected electronically stored information ("ESI") keywords that were deemed non-responsive to discovery requests.

2) **ORDERS** counsel for State Farm to file a supplemental response to the motion to compel on or before October 7, 2021, addressing whether State Farm conducted a search for ESI, irrespective of whether they contained ESI keywords, of: (1) repositories of documents related to COVID-19 coverage issues State Farm maintained in centralized locations; (2) documents created or disseminated by State Farm's public affairs department; and (3) relevant spreadsheets/databases used to calculate amounts to be paid for approved business interruption claims.

3) **GRANTS** the motion to compel audio recordings referenced in produced documents. State Farm can only remove information that can identify individuals or businesses covered by the policies and provide a protective order for entry if necessary. Counsel for State Farm is **DIRECTED** to notify the undersigned on or before October 7, 2021, when the audio recordings can be produced.

4) **DENIES** the request for entry of a validation protocol to ensure the documents identified by State Farm as non-relevant are not wrongfully being withheld.

5) **GRANTS** the motion to compel State Farm to produce a privilege log that complies with the standards set forth in the Court's ESI Protocol, ECF No. 156. If an email thread went to others, outside of those individuals identified on the last email, counsel needs to identify all those individuals or distribution groups.

6) **DENIES** as untimely the motion to compel State Farm to designate a witness pursuant to Fed. R. Civ. P. 30(b)(6) to testify on its behalf with respect to several outstanding topics.

With respect to State Farm's motion to compel, ECF No. 181, the Court:


1) **GRANTS** the motion to compel Elegant Massage to produce relevant WeChat communications, along with any attachments to the communications, in a text searchable format by October 14, 2021.

2) **GRANTS** the motion to compel Elegant Massage to produce bank account statements from BB&T for May and June 2020. To the extent that other bank accounts existed that were controlled by Elegant Massage, Li Jing Pelton, or Andy Curl that received deposits representing cash proceeds of the operation of Elegant Massage's business, the Court **GRANTS** the motion to compel those bank accounts statements for the time period of January 2018 through June 2020.

3) **GRANTS in part** the motion to compel Elegant Massage to produce additional responsive documents. Counsel for Elegant Massage is **DIRECTED** to contact Elegant Massage's accountant and leasing agent to obtain and produce any responsive documents by October 14, 2021.

4) **DENIES** the motion to compel Elegant Massage to produce a supplemental privilege log.

The Clerk shall forward a copy of this Order to all counsel of record.



Robert J. Krask
United States Magistrate Judge

Norfolk, Virginia
September 30, 2021